

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS: Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2010-0608-02E
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For use by Office of Administrative Law (OAL) only

2010 JUN -8 PM 2:05

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
DEPARTMENT OF HEALTH CARE SERVICESAGENCY FILE NUMBER (If any)
DHCS-09-011E**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Drug Medi-Cal Rates	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 51516.1
	REPEAL
TITLE(S) 22	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Lori Manieri	TELEPHONE NUMBER (916) 650-6825	FAX NUMBER (Optional) (916) 440-7714	E-MAIL ADDRESS (Optional) lori.manieri@dhcs.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>David Maxwell-Jolly</i>	DATE 5/5/10
TYPED NAME AND TITLE OF SIGNATORY David Maxwell-Jolly, Director	

For use by Office of Administrative Law (OAL) only

Amend Section 51516.1 to read:

§ 51516.1. Reimbursement Rates for Drug Medi-Cal Substance Abuse Program Services.

(a) Reimbursement for Naltrexone treatment, outpatient drug free treatment, day care rehabilitative, and perinatal residential treatment services shall be based on the lowest of the following:

(1) The provider's usual and customary charge to the general public for the same or similar services;

(2) The provider's allowable cost of ~~rendering~~ providing the services, as defined- specified in Section ~~11987.5~~ 11848.5 of the Health and Safety Code; or

(3) The statewide maximum allowances (SMAs) for Fiscal Years 2002-2003~~2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010,~~ which ADP shall establish in accordance with Section 14021.6 of the Welfare and Institutions Code. The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Years 2002-2003 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 are:

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Year 2003-2004 are:

<i>Service Function</i>	<i>Maximum Allowance Non-Perinatal Unit of Service</i>	<i>Maximum Allowance Perinatal Unit of Service</i>
Naltrexone services, per face-to-face visit	\$21.19	N/A
Outpatient drug free treatment services, face-to-face individual counseling session, per person	\$63.90 <u>70.25</u>	\$106.08
Outpatient drug free treatment services, face-to-face group counseling session, per person	\$30.60 <u>32.33</u>	\$46.97 <u>53.22</u>
Day care <u>rehabilitative</u> , per face-to-face visit	\$67.93 <u>67.85</u>	\$75.99 <u>74.44</u>
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Perinatal residential treatment services, per day	N/A	\$76.18

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Year 2004-2005 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$21.19</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$63.90</u>	<u>\$106.08</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$30.60</u>	<u>\$46.97</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$67.93</u>	<u>\$75.99</u>
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<u>Perinatal residential treatment Services, per day</u>	<u>N/A</u>	<u>\$76.18</u>

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Year 2005-2006 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$21.19</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$64.16</u>	<u>\$106.08</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$30.85</u>	<u>\$48.16</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$67.98</u>	<u>\$77.27</u>
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<u>Perinatal residential treatment Services, per day</u>	<u>N/A</u>	<u>\$77.46</u>

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Year 2006-2007 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$21.19</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$64.16</u>	<u>\$106.08</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$30.85</u>	<u>\$48.16</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$67.98</u>	<u>\$77.27</u>
<hr/>		
<u>Perinatal residential treatment Services, per day</u>	<u>N/A</u>	<u>\$77.46</u>

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal

Year 2007-2008 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$21.19</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$74.79</u>	<u>\$106.08</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$31.56</u>	<u>\$63.62</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$67.55</u>	<u>\$79.92</u>
<u>Perinatal residential treatment</u>		
<u>Services, per day</u>	<u>N/A</u>	<u>\$96.81</u>

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal

Year 2008-2009 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$21.19</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$74.99</u>	<u>\$106.08</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$31.45</u>	<u>\$63.62</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$67.96</u>	<u>\$82.90</u>
<u>Perinatal residential treatment Services, per day</u>	<u>N/A</u>	<u>\$95.21</u>

The SMAs for the following Drug Medi-Cal substance abuse program services for Fiscal Year 2009-2010 are:

<u>Service Function</u>	<u>Maximum Allowance Non-Perinatal Unit of Service</u>	<u>Maximum Allowance Perinatal Unit of Service</u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$19.07</u>	<u>N/A</u>
<u>Outpatient drug free treatment services, face-to-face individual counseling session, per person</u>	<u>\$66.53</u>	<u>\$95.23</u>
<u>Outpatient drug free treatment services, face-to-face group counseling session, per person</u>	<u>\$28.27</u>	<u>\$57.26</u>
<u>Day care rehabilitative, per face-to-face visit</u>	<u>\$61.05</u>	<u>\$73.04</u>
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<u>Perinatal residential treatment Services, per day</u>	<u>N/A</u>	<u>\$89.90</u>

(A) The SMA for counseling sessions for outpatient drug free treatment services shall be prorated annually as follows:

1. The SMA for an individual counseling session shall be prorated annually using the percentage computed by dividing the total actual time for all counseling sessions by the total time which would have been spent if all counseling sessions were 50 minutes in duration. This percentage (not to exceed 100 percent) shall be applied to the SMA to determine the maximum reimbursement rate.

For eExample: $\text{Total Session Time} / (50 \text{ minutes} \times \text{Number of Sessions}) \times \text{SMA} =$
Prorated SMA.

2. The SMA for a group counseling session shall be prorated annually using the percentage computed by dividing the total actual time for all counseling sessions by the total time which would have been spent if all counseling sessions were 90 minutes in duration. This percentage (not to exceed 100 percent) shall be applied to the SMA per person to determine the maximum reimbursement rate.

For eExample: $\text{Total Session Time} / (90 \text{ minutes} \times \text{Number of Sessions}) \times \text{SMA} =$
Prorated SMA.

3. To qualify as a group counseling session there shall be at least one Medi-Cal beneficiary in a group of no less than four and no more than ten individuals.

(b) Reimbursement for narcotic treatment program services shall be limited to the lower of the following:

(1) A uniform statewide ~~monthly~~ reimbursement (USMR) rate; or

(2) The provider's usual and customary charge to the general public for the same

or similar service.

(c) The USMR rate for narcotic treatment program services shall be based on the following:

(1) A per capita rate for each beneficiary receiving narcotic replacement therapy dosing, core, and lab work services:

(A) The narcotic replacement therapy dosing fee for methadone or LAAM shall include ingredient costs for an average daily dose of methadone or an average dose of LAAM dispensed to Medi-Cal beneficiaries;

(B) Where available, core and lab work services shall be based on and not

exceed, for individual services or in the aggregate, outpatient rates for the same or similar service under the Medi-Cal fee-for-service program.

(d) The USMR rate for narcotic treatment program services shall be prorated to a daily rate per beneficiary if the beneficiary receives less than a full month of services.

The daily rate shall be based on:

- (1) The annual rate per beneficiary; and
- (2) A 365-day year.

(e) Reimbursement for narcotic treatment program services shall not be provided for services not rendered to or received by a beneficiary.

(f) For narcotic treatment program services, the USMR rate shall consist of the following service components:

- (1) Core; laboratory work; and dosing which are described below:

(A) Core consists of a physical exam, a test/analysis for drug determination, intake assessment, initial treatment plan, and physician supervision.

(B) Laboratory work consists of a tuberculin skin test, a serological test for syphilis, drug screening (urinalysis), and pregnancy tests for female LAAM beneficiaries.

- (C) Dosing consists of an ingredient and dosing fee.

- (2) Counseling services.

(g) For narcotic treatment program services, the Fiscal Year 2003-2004 USMR.

rate for each service component shall be as follows:

Rates for USMR Components by Type of Medication with Administrative Costs in Parentheses						
<u>Fiscal Year 2003-2004 Rates for USR Components by Type of Medication</u> <u>with Administrative Costs Shown in Parentheses</u>						
<i>Narcotic Treatment Service Components</i>	<i>Methadone Non-Perinatal</i>		<i>Methadone Perinatal</i>		<i>LAAM Non-Perinatal</i>	
	<i>Daily</i>	<i>Monthly</i>	<i>Daily</i>	<i>Monthly</i>	<i>Dose</i>	<i>Monthly</i>
Core, Laboratory Work, and Dosing	\$9.399.58 (\$860.88)	\$285.64291.39	\$40.7510.76 (\$0.98)	\$326.98327.28	\$22.3322.61 \$(2.04)(2.07)	\$290.29 \$293.93
<i>Narcotic Treatment Counseling</i>	<i>Narcotic Treatment Counseling is delivered in 10 minute increments</i>					
Individual	\$12.7814.05		\$21.22		\$12.7814.05	
	(\$1.171.29)		(\$1.94)		(\$1.171.29)	
Group	\$3.403.59 (\$340.33)		\$5.225.91 (\$480.54)		\$3.403.59 (\$340.33)	

For narcotic treatment program services, the Fiscal Year 2004-2005 USR rate for each service component shall be as follows:

<u>Fiscal Year 2004-2005 Rates for USR Components by Type of Medication with Administrative Costs Shown in Parentheses</u>						
<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>		<u>Methadone Perinatal</u>		<u>LAAM Non-Perinatal</u>	
	<u>Daily</u>	<u>Monthly</u>	<u>Daily</u>	<u>Monthly</u>	<u>Dose</u>	<u>Monthly</u>
<u>Core,</u> <u>Laboratory Work,</u> <u>and Dosing</u>	<u>\$9.39</u> <u>(\$0.86)</u>	<u>\$285.61</u>	<u>\$10.75</u> <u>(\$0.98)</u>	<u>\$326.98</u>	<u>\$22.33</u> <u>(\$2.04)</u>	<u>\$290.29</u>
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>					
<u>Individual</u>	<u>\$12.78</u>		<u>\$21.22</u>		<u>\$12.78</u>	
	<u>(\$1.17)</u>		<u>(\$1.94)</u>		<u>(\$1.17)</u>	
<u>Group</u>	<u>\$3.40</u>		<u>\$5.22</u>		<u>\$3.40</u>	
	<u>(\$0.31)</u>		<u>(\$0.48)</u>		<u>(\$0.31)</u>	

For narcotic treatment program services, the Fiscal Year 2005-2006 USR rate for each service component shall be as follows:

Fiscal Year 2005-2006 Rates for USR Components by Type of Medication with Administrative Costs in Parentheses						
<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>		<u>Methadone Perinatal</u>		<u>LAAM Non-Perinatal</u>	
	<u>Daily</u>	<u>Monthly</u>	<u>Daily</u>	<u>Monthly</u>	<u>Dose</u>	<u>Monthly</u>
Core, Laboratory Work, and Dosing	\$9.64 (\$0.88)	\$293.22	\$11.84 (\$1.08)	\$360.13	\$22.33 (\$2.04)	\$290.29
<u>Narcotic Treatment Counseling</u>	Narcotic Treatment Counseling is delivered in 10 minute increments					
Individual	\$13.03		\$21.22		\$13.03	
	(\$1.19)		(\$1.94)		(\$1.19)	
Group	\$3.64		\$6.29		\$3.64	
	(\$0.33)		(\$0.58)		(\$0.33)	

For narcotic treatment program services, the Fiscal Year 2006-2007 USR rate for each service component shall be as follows:

**Fiscal Year 2006-2007 Rates for USR Components by Type of Medication
with Administrative Costs Shown in Parentheses**

<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>		<u>Methadone Perinatal</u>	
	<u>Daily</u>	<u>Monthly</u>	<u>Daily</u>	<u>Monthly</u>
<u>Core,</u> <u>Laboratory Work,</u> <u>and Dosing</u>	<u>\$9.64</u> <u>(\$0.88)</u>	<u>\$293.22</u>	<u>\$11.84</u> <u>(\$1.08)</u>	<u>\$360.13</u>
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>			
<u>Individual</u>	<u>\$13.03</u> <u>(\$1.19)</u>		<u>\$21.22</u> <u>(\$1.94)</u>	
<u>Group</u>	<u>\$3.64</u> <u>(\$0.33)</u>		<u>\$6.29</u> <u>(\$0.58)</u>	

For narcotic treatment program services, the Fiscal Year 2007-2008 USR rate for each service component shall be as follows:

**Fiscal Year 2007-2008 Rates for USR Components by Type of Medication
with Administrative Costs Shown in Parentheses**

<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>		<u>Methadone Perinatal</u>	
	<u>Daily</u>	<u>Monthly</u>	<u>Daily</u>	<u>Monthly</u>
Core, Laboratory Work, and Dosing	\$11.20 (\$1.02)	\$340.67	\$12.15 (\$1.11)	\$369.56
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>			
Individual	\$14.96 (\$1.37)		\$21.22 (\$1.94)	
Group	\$3.51 (\$0.32)		\$7.07 (\$0.65)	

For narcotic treatment program services, the Fiscal Year 2008-2009 USR rate for each service component shall be as follows:

**Fiscal Year 2008-2009 Rates for USR Components by Type of Medication
with Administrative Costs Shown in Parentheses**

<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>	<u>Methadone Perinatal</u>
	<u>Daily</u>	<u>Daily</u>
Core,	\$12.44	\$13.38
Laboratory Work,	(\$1.14)	(\$1.22)
and Dosing		
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>	
Individual	\$15.00	\$21.22
	(\$1.37)	(\$1.94)
Group	\$3.49	\$7.07
	(\$0.32)	(\$0.65)

For narcotic treatment program services, the Fiscal Year 2009-2010 USR rate for each service component shall be as follows:

<u>Fiscal Year 2009-2010 Rates for USR Components by Type of Medication with Administrative Costs Shown in Parentheses</u>		
<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>	<u>Methadone Perinatal</u>
	<u>Daily</u>	<u>Daily</u>
Core,	<u>\$11.34</u>	<u>\$12.21</u>
Laboratory Work,	<u>(\$1.03)</u>	<u>(\$1.11)</u>
and Dosing		
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>	
Individual	<u>\$13.30</u>	<u>\$19.04</u>
	<u>(\$1.22)</u>	<u>(\$1.74)</u>
Group	<u>\$3.14</u>	<u>\$6.36</u>
	<u>(\$0.29)</u>	<u>(\$0.58)</u>

The USMR rates include administrative costs for the county or ADP when ADP assumes the role of the county as described in Section 51341.1(f). Provider reimbursement shall be adjusted to reimburse the county or ADP for administrative costs.

(h) For narcotic treatment program services, counseling sessions shall meet the requirements specified in Section 10345, Title 9, CCR, and

(1) A minimum of fifty (50) minutes of counseling per calendar month shall be

provided to each beneficiary. Counseling shall be individual and/or group counseling which meets the requirements of Section 51341.1(b)(8) and/or (b)(9). Any waiver of the fifty (50) minute minimum for counseling shall be in accordance with Section 10345, Title 9, CCR.

(2) ADP shall reimburse a provider for up to a maximum of 200 minutes of counseling per calendar month, per beneficiary. Counseling shall be individual and/or group counseling which meets the requirements of Section 51341.1(b)(8) and (b)(9).

(3) A provider shall claim reimbursement for counseling in 10-minute increments.

NOTE: Authority cited: Sections 10725, 14021.3, 14021.5, 14021.6, 14105 and 14124.5, Welfare and Institutions Code; and Sections 20 and 11758.41 11758.42, Health and Safety Code. Reference: Sections 5705, 5715, 14021.5, 14021.6, 14021.9 and 14132.90, Welfare and Institutions Code; and Sections 11758.42 and 11758.46, Health and Safety Code.

FINDING OF EMERGENCY

This emergency regulatory action amends Section 51516.1, Title 22, California Code of Regulations (CCR), by updating Medi-Cal reimbursement rates for substance abuse (Drug Medi-Cal) services for Fiscal Year (FY) 2003-2004 through FY 2009-2010 in accordance with Welfare and Institutions Code (WIC) Sections 14021.5, 14021.6 and 14105, and Health and Safety Code (HSC) Section 11758.42.

Pursuant to WIC Section 14021.5, the Department of Health Care Services (Department) shall promulgate emergency regulations to establish rates to determine reimbursement of drug services allowable under the Medi-Cal Program. WIC Section 14105 states that the Department shall adopt Medi-Cal rate regulations on an emergency basis. Both statutes state that the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The deeming of the regulations as an emergency by the Legislature implies the need for immediate action to effectuate the statutes being implemented through this action. WIC Section 14021.6 states that the Department may adopt Medi-Cal rate regulations on an emergency basis.

This regulatory action is being adopted by the Department rather than by the Department of Alcohol and Drug Programs because the Department is the single state agency authorized by the federal government to administer the Medi-Cal program.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This emergency regulatory action amends Title 22, CCR, Section 51516.1, by updating Medi-Cal reimbursement rates for substance abuse (Drug Medi-Cal) services for FY 2003-2004 through FY 2009-2010. This emergency action implements, interprets, and makes specific the provisions of WIC Sections 14021.5, 14021.6 and 14105, and HSC Section 11758.42. These provisions require the Department of Alcohol and Drug Programs (ADP), in consultation with the Department of Health Care Services (Department), to establish rates for Drug Medi-Cal (DMC) services, establish a dosing fee for Methadone and Levoalphacetylmethadol (LAAM), and establish a per capita uniform statewide reimbursement rate for ancillary services.

This emergency regulatory action is necessary to implement WIC Sections 14021.5, 14021.6 and 14021.9 and HSC Sections 11758.42 and 11758.46. WIC Section 14021.5 specifies that rates for DMC services shall be effective July 1 through June 30 of the fiscal year in which the rates are established. WIC Section 14021.6 and HSC Section 11758.42 specify how rates for DMC services shall be determined. HSC Section 11758.42 requires ADP to establish rates for the use of the narcotic replacement drugs Methadone and LAAM. HSC Section 11758.46 specifies Drug Medi-Cal services which are reimbursable through the Medi-Cal program.

Specific changes are described below:

- Section 51516.1(a): Revised to reflect that Senate Bill (SB) 1838, Chapter 862, Statutes of 2004, Section 36 renamed Day Care Habilitative to Day Care Rehabilitative.
- Section 51516.1(a)(2): Replaced “rendering” with the more common term “providing” based on its use in HSC Section 11848.5. Replaced the term “defined” with the more accurate term “specified” since HSC Section 11848.5 specifies information, it does not provide definitions. Replaced Section 11987.5 with Section 11848.5 of the HSC as the appropriate reference. Section 11848.5 replaced Section 11987.5 in January 2005 due to SB 1838, Statutes of 2004, Chapter 862, Sections 120 and 134.
- Section 51516.1(a)(3): The fiscal years were updated to FY 2003-2004 through FY 2009-2010. This clarifies the fiscal year scope of the regulations.
- The statewide maximum allowances (SMAs) for FY 2003-2004 through FY 2009-2010 have been revised and are indicated below in the sequence of how each Budget Act impacted rate development. ADP established the rates in accordance with WIC Section 14021.6 and each fiscal Year’s Budget Act. The SMAs are based on the median rates from the most recently completed cost data for each modality as reported by county-operated providers and county-contracted providers.
 - The proposed FY 2003-2004, DMC reimbursement rates are based on cost report data from FY 2001-2002.
 - The FY 2004-2005 Budget Act (SB 1113, Statutes of 2004, Ch. 208, Item 4200-102-0001, Provision 5 and Item 4200-103-0001 Provision 5) approved the FY 2004-2005 DMC rates at the FY 2002-2003 rate levels, which are based on cost report data from FY 2000-2001.
 - The FY 2005-2006 Budget Act (SB 77, Statutes of 2005, Ch. 38, Item 4200-102-0001, Provision 4 and Item 4200-103-0001, Provision 5) authorized the FY 2005-2006 DMC reimbursement rates at the FY 2002-2003 rate levels with an augmentation of \$1,104,000 General Fund monies.
 - The FY 2006-2007 Budget Act (AB 1801, Statutes of 2006, Ch. 47, Governor’s Objections Section) indicated that of the combined amounts appropriated in Items 4200-102-0001 and 4200-103-0001, \$1,000 additional was appropriated to increase the FY 2006-2007 rates above the FY 2005-2006 rates. Because of this small amount, FY 2006-2007 used the FY 2005-2006 rates.
 - The rates for FYs 2003-2004, 2007-2008 and 2008-2009 were developed in accordance with the established rate-setting methodologies, since there was no reduced Governor’s Budget for ADP as occurred in other FYs.

- The specific methodology used to calculate Drug Medi-Cal SMAs is described in the document entitled "Drug Medi-Cal Rate Setting Methodology, For Non-Narcotic Treatment Programs, For Fiscal Year 2003-2004 through FY 2009-2010." This document is included in the Department's rulemaking file, which is maintained by the Department's Office of Regulations.
 - The FY 2004-2005 Budget Act approved the Drug Medi-Cal rates at the FY 2002-03 levels. Therefore there was no Drug Medi-Cal Rate Setting Methodology for FY 2004-2005 published.
 - The FY 2005-2006 Budget Act approved the DMC rates at the FY 2002-2003 levels but also provided \$1,104,000 in General Funds to augment above the FY 2002-2003 levels. After calculation of the FY 2005-2006 rates based on the regular methodology, calculation of the FY 2005-2006 augmented rates is described in the document entitled "FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology For Narcotic and Non-Narcotic Treatment Programs," and is included in the Department's rulemaking file, which is maintained by the Department's Office of Regulations.
 - The FY 2009-10 Budget Act contained a 10 percent rate reduction to the reimbursement rates developed under the customary rate-development methodologies (see ABX4 4, Chapter 4, Statutes of 2009, Section 31).
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- Section 51516.1(a)(3)(A) was revised to add "treatment" between "outpatient drug free" and "services" for accuracy.
 - Section 51516.1(a)(3)(A)1. was revised to make a grammatical correction.
 - Section 51516.1(a)(3)(A)2. was revised to make a grammatical correction.
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- Section 51516.1(b)(1) was revised to delete the reference to the "monthly" reimbursement rate. AB 1279, Statutes of 2008, Ch. 759, revised HSC Section 11758.42(c) to specify that reimbursement for narcotic replacement therapy. . . shall be based on a per capita statewide daily reimbursement rate. Therefore, Sections 51516.1(b), (c), (d), (f) and (g) were revised to replace "Uniform Statewide Monthly Reimbursement (USMR)" rate with "Uniform Statewide Reimbursement (USR)" rate.
 - Section 51516.1(g) was revised to update the uniform statewide reimbursement rates (USRs) for narcotic treatment program services for FY 2003-2004 through FY 2009-2010. The specific methodology used to calculate narcotic treatment USRs are described in the document entitled "Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology, FY 2003-2004 Through FY 2009-2010." This document is included in the Department's rulemaking file, which is maintained by the Department's Office of Regulations.

- The FY 2004-2005 Budget Act approved the Drug Medi-Cal rates at the FY 2002-2003 levels. Therefore, there was no Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology for FY 2004-2005 published.
- The FY 2005-2006 Budget Act approved the DMC rates at the FY 2002-2003 levels but also provided \$1,104,000 in General Funds to augment above the FY 2002-2003 levels. After calculation of the FY 2005-2006 rates based on the regular methodology, calculation of the FY 2005-2006 augmented rates is described in the document entitled “FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology For Narcotic and Non-Narcotic Treatment Programs,” and is included in the Department’s rulemaking file, which is maintained by the Department’s Office of Regulations.
- For FY 2006-2007 and FY 2007-2008, LAAM was deleted from the narcotic treatment program rate tables. LAAM was discontinued from the United States market in August 2003 because of reports of adverse cardiac-related events.
- The FY 2009-10 Budget Act contained a 10 percent rate reduction to the reimbursement rates developed under the customary rate-development methodologies (see ABX4 4, Chapter 4, Statutes of 2009, Section 31).

AUTHORITY: Sections 10725, 14021.3, 14021.5, 14021.6, 14105 and 14124.5, Welfare and Institutions Code; and Sections 20 and 11758.42, Health and Safety Code.

REFERENCE: Sections 5705, 5715, 14021.5, 14021.6, 14021.9 and 14132.90, Welfare and Institutions Code; and Sections 11758.42 and 11758.46, Health and Safety Code.

FISCAL IMPACT ESTIMATE

- (a) Fiscal Effect on Local Government: None.
- (b) Fiscal Effect on State Government: State General Funds for this program are budgeted by ADP and the federal funding is budgeted by the Department.
- (c) Fiscal Effect on Federal Funding of State Programs: \$10,297,000 (savings) in Federal Financial Participation for FY 2009-10.
- (d) All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (e) Other Nondiscretionary Costs or Savings including Revenue Changes imposed on State or Local Governments: None.

DETERMINATIONS

The Department has determined that the emergency regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the emergency regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the emergency regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the emergency regulations would only affect small businesses that voluntarily provide Drug Medi-Cal services.

The Department has determined that the emergency regulations will have no impact on housing costs.